IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 191 OF 2005

M/s. Agricare foods Pvt. Ltd. .. Applicant

Vs.

Maharashtra Rajya Sahakari Dudh Mahasangh .. Respondent

Mr. M.P.S. Rao with Mr. Raju Gawade i/b K. Ashar & Co. for applicant.
Mr. Ramachandra Yadav for Respondent.

CORAM : B. H. MARLAPALLE,J.

Date : February 03, 2006.

P.C.:

1. Heard the learned counsel for the applicant.

This is an application for the appointment of sole Arbitrator to adjudicate/arbitrate in the disputes arising between the parties from the agreement dated 21/3/2001. The prayer clause in this application reads as under:-

> "the Hon'ble Chief Justice of this Hon'ble High Court be pleased to appoint Mr.Justice B.P. Saraf (Retired) or any other Arbitrator as may be deemed fit, as the sole Arbitrator to adjudicate the disputes and differences that have arisen between the parties in respect of the Agreements dated 21/3/2001."

2. It is clear from the record that the applicant vide its letter dated 25/7/2005 had informed the respondent regarding the appointment of Dr. Justice B.P. Saraf (Retired) as the sole Arbitrator and the respondent-Mahasangh vide its letter dated 10/8/2005 informed that it proposed the following three names for being considered as the sole Arbitrator or the Arbitrators:

(a) Mr.Justice T.K. Chandrashekhara Das

(b) Mr.Justice B.V. Chavan

(c) Mr.Justice D.R. Dhanuka,

all the three being the retired Judges of this Court. However, the applicant by its letter dated 24/8/2005 reiterated its confirmation to the appointment of Dr.Justice B.P. Saraf (Retired) as the sole Arbitrator. The learned counsel for the respondent on instructions has reiterated its opposition to the name suggested by the applicant and it was made clear across the bar that for the appointment of sole Arbitrator respondent would not insist on any of the names it had suggested earlier and it leave the choice to this court.

3. The prayer made by the applicant is ostensibly for the appointment of the sole Arbitrator and the insistence as was emphatically placed before this

court on the name of Dr.Justice Saraf is not supported from the prayer as set out in the petition. I had, therefore, suggested the names of the following retired Judges of this Court:

(a) Mr. Justice R.A. Jahagirdar

(b) Mr. Justice A.A. Halbe

(c) Mr. Justice S.D. Pandit

4. The learned counsel for the respondent on instructions has consented for the appointment of any of the above three Hon'ble retired Judges of this court as the sole Arbitrator but on the other hand the learned counsel for the applicant has recorded his opposition to any of these names and on the other hand insisted for the appointment of Dr.Justice B.P. Saraf and none else. It was also suggested the Dr.Justice B.P. Saraf be treated as the Arbitrator on behalf of the applicant and another Arbitrator be appointed on behalf of the respondent. The prayer as set out in the petition and reproduced hereinabove does not show anything about a board of arbitrators or more than one arbitrators being appointed and in any case the respondent being a Co-operative Society at the State level and presently under some clout, the prayer for appointment of the sole Arbitrator could suffice and it would not advisable to overburden financially the respondent-society.

5. I, therefore, appoint Mr.Justice A.A. Halbe (Retired) as the sole Arbitrator to resolve the disputes/differences arising between the parties of this application and from the agreement dated 21/3/2001. The parties shall appear before the Arbitrator, so appointed, within a period of three weeks and settle the further terms of the arbitral proceedings including the time span etc.

. It is also made clear that the Arbitrator would consider the claims made by the applicant as well as the counter claims, if any, of the respondent.

6. The Registry is directed to forward a copy of this order to Mr.Justice A.A. Halbe forthwith.

7. Application disposed off in terms of the above order.

8. The learned counsel for the applicant submitted an oral application for stay to this order.
The application is hereby rejected.

(B.H. Marlapalle, J.)